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Justice Dept. Opens Inquiry In Soviet Contact by Officer

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WASHINGTON, June 1 — The Department of Justice, at the insistence of Secretary of Defense Caspar W. Weinberger, shifted its position today and started an investigation to see whether an Air Force officer accused of unauthorized visits to the Soviet Embassy here had violated espionage laws.

A spokesman for the Justice Department, John K. Russell, announced this afternoon that the case of Second Lieut. Christopher M. Cooke would be given "a thorough investigation to determine whether there had been any violation of Federal criminal statutes." Mr. Russell said that that included the possibility of espionage.

Until this morning, Justice Department officials had maintained that the case against Lieutenant Cooke for allegedly breaking Air Force regulations was a military matter and that they could see no cause for prosecution under the espionage laws.

But Mr. Weinberger, according to officials in both departments, called Attorney General William French Smith this morning to complain about the Justice Department's position and to insist on an investigation. Mr. Smith agreed to take the case. The Justice Department routinely handles all espionage prosecutions for the United States Government.

Weinberger Position Cited

A Defense Department official said that Mr. Weinberger felt strongly that no one should be allowed to go free by making a deal to cooperate with investigators. The official mentioned a promise of complete immunity that Air Force investigators gave Lieutenant Cooke in return for his promise to cooperate fully with their investigation into his allegedly unauthorized visits to the Soviet Embassy.

The official also said Mr. Weinberger felt that, if the lieutenant was allowed to escape prosecution, other officers with access to sensitive information might do the same thing. Military officials have said that Lieutenant Cooke told Air Force investigators that he had given information about the Titan missiles to Soviet diplomats in an effort to gain their trust and to obtain information from them.

Efforts to reach Lieutenant Cooke's military counsel, Capt. Francis W. Pedrotty, were unsuccessful. His office at Langley Air Force Base in Virginia said he had left for Kansas to see his client. The legal office at McConnell Air Force Base said he had not yet arrived.

The deputy White House press secretary, Larry Speakes, said that President Reagan had been "fully apprised" of the investigation, but the spokesman declined further comment because the investigation was continuing.

Officials in the Justice and Defense Departments suggested these four difficulties in prosecuting Lieutenant Cooke for possible espionage:

¶ It is necessary to prove that Lieutenant Cooke intended to do harm to the United States by giving secret information to the Soviet Union. The law says that a person would be guilty of espionage only under those circumstances, an allegation that officials in both departments said they doubted they could prove.

¶ There is a possibility that Lieutenant Cooke's rights may have been violated in the manner in which he was treated. He was taken into custody from his home in Richmond on May 5 and questioned at Langley Air Force Base in Hampton, Virginia, until the evening of May 9 without legal counsel.

¶ There is also a possibility that the promise of immunity would preclude taking the case into court. Justice Department officials said that they could not get a conviction with that. But a Defense Department official asserted the promise of immunity had been made without authority from senior officials.

¶ It would be necessary to disclose the intelligence methods that were employed to discover Lieutenant Cooke's visits to the Soviet Embassy. Defense counsel would surely ask for them in court, the officials said. Moreover, the court might require the disclosure of the confidential information that the lieutenant was said to have given the Russians.

Lieutenant Cooke was charged last Thursday with three counts of having failed to inform his superiors of his visits to the Soviet Embassy between December 1980 and May 1981. Air Force regulations require that all contacts with representatives of Communist nations be reported.